

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

RAYMOND J. WHITLEY,

Petitioner,

v.

CIVIL ACTION NO. 2:17-cv-04582

RANDOL MUTTER,

Warden,

Respondent.

ORDER

Before the Court is Petitioner Raymond J. Whitley's Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254, (ECF No. 1), and Respondent Randol Mutter's Motion to Dismiss. (ECF No. 14.) By Standing Order entered on January 4, 2016, and filed in this case on December 21, 2017, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition ("PF&R"). (ECF No. 4.) The matter was subsequently transferred to Magistrate Judge Cheryl A. Eifert on December 19, 2019. (ECF No. 22.) On February 12, 2020, Magistrate Judge Eifert entered her PF&R, recommending that the Court grant Respondent's Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), deny Petitioner's Petition for a Writ of Habeas Corpus, and dismiss this action from the docket of the Court. (ECF No. 23.)

This Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file

timely objections constitutes a waiver of *de novo* review and the Plaintiff's right to appeal this Court's order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, the Court need not conduct a *de novo* review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

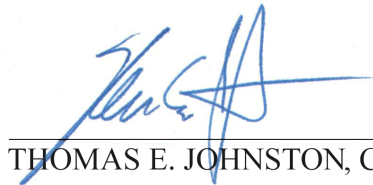
Objections to the PF&R in this case were due on March 2, 2020. (ECF No. 23.) To date, Petitioner has failed to submit any objections in response to the PF&R, thus constituting a waiver of *de novo* review and Petitioner's right to appeal this Court's order.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 23), **GRANTS** Respondent's Motion to Dismiss, (ECF No. 14), **DENIES** Petitioner's Petition for a Writ of Habeas Corpus, and **DISMISSES** this action **WITH PREJUDICE** from the docket of the Court.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 5, 2020



THOMAS E. JOHNSTON, CHIEF JUDGE